HOUSE RESEARCH

Bill Summary

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Overview

This bill makes various modifications of the laws relating to government data practices.

In addition to technical and miscellaneous changes, the House provisions agreed to include an increase of the penalties that may be imposed for violations, and new classifications of data related to individuals who are appointed to a public body, the use and storage of explosives, and users of automated parking at the Minneapolis-St. Paul International Airport . Provisions incorporated from the Senate version of the bill permit sharing of educational data, specify certain requirements of school background checks, and regulate business screening services.

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1 **Review of Data; State Auditor.** Requires that if a person receives data from the state auditor for purposes of review and verification prior to public release of the formal audit, the person must protect the data from any disclosure that would be prohibited by law. A person who improperly releases data is subject to civil and criminal remedies as provided in the data practices act.

2 **Request for Access.** Removes an existing authorization for a government entity to charge a cost-based fee for "compiling" copies of requested data; the use of the term "compiling" is considered obsolete. The entity may charge for the costs of making and certifying the copies.

3 **Damages.** Increases the penalty for a willful violation of the data practices act. Provides

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that a government entity is liable for exemplary damages of between $1,000 and $15,000 for each violation. Current law sets the damage range between $100 and $10,000 per violation.

4 **Action to Compel Compliance.** Increases the potential civil penalty – to a maximum of $1,000 – against a government entity if a court issues an order to compel compliance with a provision of the data practices act. Under current law, the civil penalty may not exceed $300.

5 **Metropolitan Airport Parking.** Establishes a cross-reference to a new substantive provision related to parking customers at the Minneapolis-St. Paul International Airport , established in section 21 of this bill.

6 **Data Sharing; Improving Instruction.** Permits specified educational data to be shared between the Department of Education and the Minnesota Office of Higher Education for purposes of analyzing and improving instruction in public schools. Any analysis or report on the data must only contain summary data.

Data that may be shared include attendance data, demographic and enrollment data, academic performance and testing data, and special academic services received by a student.

7 **Social Security Numbers; Public Mailings.** Prohibits a government entity from mailing or delivering an item that displays a Social Security number either on the outside of the item, or in a manner that makes a Social Security number visible from the inside of the item.

A government entity may also not request or require an individual to make a mailing that displays a social security number on the outside of the mailing or that makes a social security number visible from within the mailing.

8 **Civil Actions.** Replaces the phrase "state agency, political subdivision, or statewide system" with the term "government entity." The change does not expand or restrict current substantive law.

9 **Disclosure of Data.** Makes a grammatical correction to section 13.39.

10 **Applicants for Appointment to a Public Body.** Specifies that certain data on an applicant for appointment to a public body is public. The public data includes that which might be found on an applicant's basic resume for the position and any data contained in an application for appointment through the state open appointments process. All other data on the applicant, including contact information (unless the position has a residency requirement necessitating release of the applicant's full address), is classified as private.

Once an applicant is appointed to the public body, the applicant's residential, telephone, and email contact information is also made public. Any email address or telephone number provided to the appointee by the public body is public.

11 **Use and Storage of Explosives.** Establishes a cross reference to a new substantive provision related to the use and storage of explosives, reflecting changes made in sections 17 and 18 of this bill.

12 **School Background Checks; Effect.** Requires that a school district inform an applicant for employment or a volunteer position if the application was denied following the results of a criminal background check. An individual who is a current employee or volunteer must also be informed if their status is terminated because of the results of a background check.

13 **School Background Checks; Definitions.** Amends the definition of "school" in the school district background check statute by including intermediate school districts to the

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definition. This section also adds a definition of "security violation."

14 **School Background Checks; Third-Party Contractors.** Permits a school hiring authority to contract with an eligible third-party to conduct criminal background checks required by law and specifies certain requirements for the contractual arrangement.

This section also specifies notification requirements for an individual who is the subject of a background check and permits the individual to challenge the accuracy and completeness of any information contained in the background check report.

15 **Peace Officer Records.** Corrects an erroneous cross reference in the section of law relating to peace officer records on children.

16 **Data Sharing; Employment Data.** Permits the sharing of certain employment data held by the Department of Employment and Economic Development. The department may share data on individuals convicted and sentenced to confinement with the Department of Corrections for purposes of the individual's pre- and post-confinement case planning.

This section is effective July 1, 2008 .

17 **Explosives Data.** Establishes an exception to the presumption that data held by the state fire marshal is public. Data collected by the state fire marshal on the location of storage and use of explosives or blasting agents by authorized individuals is classified as nonpublic data.

Data on the storage or planned use of explosives may be shared with law enforcement and with employees of a government entity or utility if their job duties require access to a facility containing explosives. A recipient of shared explosives data may not disclose the data to anyone not directly involved in the work to be completed at the site.

This section is effective July 1, 2009 .

18 **Explosives; Application for Possession.** Provides that the portions of an application submitted for purposes of securing a permit to possess explosives or blasting agents that indicate: (1) the applicant's place and time of intended use; and (2) the place and means of storage of the explosives or blasting agents are classified as nonpublic.

Data on the storage or planned use of explosives may be shared with law enforcement and with employees of a government entity or utility if their job duties require access to a facility containing explosives. A recipient of shared explosives data may not disclose the data to anyone not directly involved in the work to be completed at the site.

This section is effective July 1, 2009 .

19 **Business Screening Services.** Regulates the use of criminal record information by business screening services and establishes a procedure for disputing data contained in a criminal record as maintained by the screening service. This section also imposes a penalty for violation and establishes jurisdiction over screening services doing business in the state.

Subdivision 1. Definitions. Provides definitions of the terms "business screening service," "conviction," and "criminal record."

Subd. 2. Criminal Records. Prohibits a business screening service from

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disseminating a criminal record unless the record has been updated within the previous month.

Subd. 3. Correction and Deletion of Records. Establishes procedures under which the subject of a record may dispute the completeness and accuracy of a record and requires the screening service to conduct an investigation and correct or delete the record as appropriate.

Subd. 4. Date and Notice. Requires a screening service to include the date on which a record was collected and notice that the information included in the report may include records that have become inaccessible to the public since the date of collection.

Subd. 5. Remedies; FCRA. Establishes remedies for violation of this section. A service may be liable for a penalty of $1,000 or actual damages caused by a violation, plus costs, disbursements, and reasonable attorney's fees. This section also specifies that a screening service that is in compliance with the federal Fair Credit Reporting Act is also in compliance with this section and is subject to the remedies provided here when the actions would violate both this section and federal law.

Subd. 6. Service of Process. Provides that a business screening service that disseminates criminal records in Minnesota , or obtains records from a government entity or court in Minnesota , is considered to have consented to service of process for an action and remedies allowed by this section.

This section is effective July 1, 2009 .

20 **Hennepin County Medical Center .** Permits the Hennepin County Medical Center to exchange medical data with other entities within its facility for the purpose of treatment, payment, or health care operations. This section also provides that participants in the exchange agreement are considered related health care entities and operate within the same facility for purposes specified elsewhere in law.

21 **Airport Parking.** Provides that certain data related to applicants for use or users of automated parking facilities at the Minneapolis-St. Paul International Airport are classified as private or nonpublic data.

The following data are classified: (1) applications for an electronic tag or device that provides access to an airport parking facility and which assesses a charge for a vehicle's use of the facilities; (2) personal and vehicle information; (3) financial and credit data; (4) parking usage.

22 **Marriage Dissolution Proceedings; Social Security Numbers.** Requires that a separate document be submitted to the court providing the social security numbers of a petitioner and respondent. This requirement applies to proceedings for marriage dissolution or legal separation where child support or spousal maintenance issues will be addressed. The document containing the numbers must not be made available to the public.

This section is amended to conform to a recent change to court rules which require that

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social security numbers be filed separately in these proceedings.